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JUN 27 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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June 27, 1997

Mr. William F. Caton  
Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

**Re: Amendment of Rules and Policies Governing Pole  
Attachments, CS Docket No 97-98.**

Dear Mr. Caton:

Enclosed herewith for filing are the original and eleven (11) copies of MCI  
Telecommunications Corporation's Comments regarding the above-captioned matter.

Please acknowledge receipt by affixing an appropriate notation on the copy of the MCI  
Comments furnished for such purpose and remit same to the bearer.

Sincerely yours,

Lawrence Fenster

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JUN 27 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

**In the Matter of**

**Amendment of Rules and  
Policies Governing Pole  
Attachments**

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**CS Docket No. 97-98**

**COMMENTS OF  
MCI TELECOMMUNICATIONS CORPORATION**

Lawrence Fenster  
MCI Telecommunications Corp.  
1801 Pennsylvania Ave., NW  
Washington, D.C. 20006

June 27, 1997

## Table of Contents

Summary .....	i
I. Introduction .....	1
II. Pole Attachment Issues .....	2
A. Utility Companies Do Not Provide Sufficient Evidence in Support of Increasing the Presumptive Pole Height .....	2
1. No evidence that 35 foot poles are rapidly being replaced with 40 foot and taller poles .....	3
2. No evidence that demand from cable companies or new entrants is causing an increase in standard pole height .....	3
3. No evidence that utility companies are not being reimbursed for the additional costs associated with increasing pole height ..	6
B. The Commission Should Prohibit Utility Companies from Recovering Through Non-recurring Charges, Investment Costs That Result in Additional Attachment Capacity .....	6
C. Utilities' Evidence in Support of Increasing the Other-than-usable Space Presumption Relies on Partial, Misleading, Evidence .....	8
1. Electric utilities fail to present reliable evidence in favor of increasing pole space to achieve minimum ground clearance ..	10
2. Electric utilities rely on arguments in favor of transferring the safety space to other-than-usable space that have already been rejected by the Commission .....	11
D. All Pole Heights Should be Included in Pole Attachment Rate Calculations .....	12
1. 30 foot poles allow attachment by telecommunications carriers .....	13
2. The Commission should include 30 foot poles in the formulas for net investment .....	14
E. The Commission Need Not Modify its Pole Attachment Formula .....	15
1. Some companies have nearly depreciated their pole plant .....	15
2. Commission need not modify its pole attachment formula as net investment approaches zero. ....	15

F.	Commission Should Use Interstate Rate of Return in its Pole Attachment Formula .....	20
G.	The Pole Attachment Formula Should be Applied to Transmission Towers .....	21
III.	Pricing for Underground Conduit and Buried Facilities .....	23
A.	The Commission Should Not Apply Underground Conduit Rates to Buried Facilities .....	23
B.	Usable Space .....	24
1.	MCI is not aware of investments located in underground conduit or buried facilities that do not serve conduit purposes ..	24
2.	Usable space .....	24
a.	Conduit systems .....	24
b.	Buried facilities .....	26
Attachment 1:	Ex Parte Statement, Discussing MCI's Experience Attaching to Transmission Facilities and Conduit of Electric Utility Companies .....	29
Attachment 2:	Tables 3-4 and 3-1, Bellcore Manual of Construction Procedures .....	32
Attachment 3:	Percent of Pole Plant Depreciated .....	35
Attachment 4:	Existing FCC Pole Attachment Formula .....	36
Attachment 5:	Rate Impact of Removing Net Salvage From Existing FCC Pole Attachment Formula .....	37
Attachment 6:	Gross Book Value Adjustment .....	39

## Summary

Congress recognized that the economic feasibility of new entry into local telephone markets significantly depended on the ability of new entrants to obtain access to utility company poles, ducts, and conduits at just and reasonable, non-discriminatory rates. This ability is particularly crucial for the development of facilities-based competition.

In its comments, MCI recommends that the Commission take the following steps to ensure that new entrants obtain access to utility company poles, ducts, and conduits at just and reasonable, nondiscriminatory rates. The Commission should:

- retain a presumptive pole height of 37.5 feet;
- retain a presumptive 13.5 feet of usable space;
- retain 30 foot poles in the determination of net pole investment;
- retain the existing pole attachment rate-setting formula;
- use 11.25% as the default rate of return for attachment rate-setting formulas;
- utilize its pole attachment formula for transmission facilities;
- utilize Accounts 2423 and 6423 for ducts placed in buried facilities, and accounts 2441 and 6441 for ducts placed in underground conduit systems;
- set the presumed number of reserved channels equal to 1; and
- set the presumed number of innerducts equal to 3.5.

The electric companies do not provide convincing evidence that 35 foot poles are rapidly being replaced with 40 foot and taller poles. What is more important, utility companies rarely increase the height of a pole in response to additional attachments from attachees without requiring prior payment for such a modification. Consequently, there is no need to modify the Commission's presumptive figures, or its pole attachment formula in order for utility companies to recover additional pole attachment costs caused by new entrants.

MCI urges the Commission to reject the recommendations of raising the presumptive height required for ground clearance from 18 feet to 19.7 feet, and transferring the electrical safety space from usable electric space to other-than-usable space. The NESC does not uniformly require 18 feet of ground clearance. Some ground clearance requirements are above 18 feet, and some are below. The 18 feet of presumptive ground clearance continues to represent the average minimum ground clearance. In addition, the Commission has explicitly ruled that the safety space is properly allocated to usable electric space.

Many 30 foot poles are capable of carrying electric and telecommunications cables. There are also many 30 foot poles that carry only street lights, or are used exclusively by ILECs, that are capable of telecommunications attachments. If the Commission excludes the lower net investment costs associated with these poles from its pole attachment formula, rates will be set unreasonably and unjustifiably above costs. Even if the ILECs and the electric companies impute these rates to themselves or their telecommunications affiliates, the overcharges will constitute a pool of revenues from which they may subsidize competitive telecommunications or electric services, in violation of §254(k) of the 1996 Act.

In light of the possible difficulty removing negative net salvage values from electric and telephone regulatory accounts, MCI recommends the Commission retain its existing pole attachment rate-setting formula. It is not true that the Commission's pole attachment rate formula will result in negative pole attachment rates as net pole investment approaches zero. At the moment net pole investment becomes negative,

the pole maintenance rate and carrying charge rate turn negative, offsetting the negative pole investment amount, always producing a positive rate.

It is feasible and necessary for new telecommunications entrants to gain access to electric utility company transmission facilities. Consequently, the Commission must ensure that just and reasonable rates for attaching to electric transmission facilities are available to attachees. MCI recommends the Commission modify its current pole attachment formula in order to determine the maximum rate for attaching to electric company transmission facilities. Until the Commission determines a presumptively accurate amount of total usable space on a typical transmission tower and adjustment factor to eliminate non-pole related investments, the Commission should require electric utility companies to apply the pole attachment formula to their transmission facilities. This will require them to estimate average usable space and the adjustment factor appropriate for their facilities, and use appropriate FERC transmission facility investment and expense accounts to estimate transmission facility maintenance carrying rates, transmission facility depreciation carrying rates factors, and net transmission facility investment.

Ducts placed in trenches are significantly less expensive than ducts placed in underground conduit systems. Using rates based on conduit investments and expenses would overstate duct costs in trenches. Therefore, MCI recommends the Commission use Accounts 2423 and 6423 for buried facilities, and accounts 2441 and 6441 for underground conduit systems.

The Commission should also set the average number of channels reserved per

conduit system or trench equal to “one” (1). Each conduit system or trench requires one maintenance channel. Since this maintenance channel is only made available for temporary uses, there is no need to presume that more than one channel should be reserved for maintenance in any conduit system or trench.

Finally, MCI recommends the Commission adopt “three and one-half” (3.5) as the presumptive number of innerducts that can be pulled per duct. Typically, ducts are 4 inches in diameter, and are able to contain three (3), 1.5 inch innerducts, or with the introduction of fiber optic technology, four (4), 1 inch innerducts. The continued development of fiber technology will no doubt increase the sharing possibilities in the future. Consequently, 3.5 innerducts is a reasonable presumptive average.



Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

<b>In the Matter of</b>	)	
	)	
<b>Amendment of Rules and</b>	)	<b>CS Docket No. 97-98</b>
<b>Policies Governing Pole</b>	)	
<b>Attachments</b>	)	

**I. Introduction**

MCI Telecommunications Corporation ("MCI") respectfully submits its comments in response to the Notice of Proposed Rulemaking ("Notice") in the above-captioned docket<sup>1</sup>. In the Notice, the Commission requested comments on proposed modifications to its rules relating to the maximum just and reasonable rates utilities may charge for attachments made to their poles, ducts, conduits, or rights-of-way. In particular, the Commission requested comment on the appropriateness of its existing pole attachment formula, the appropriateness of presumptions used to determine the maximum allowable pole attachment rate, various accounting changes, and the appropriateness of its proposed methodology for setting maximum allowable rates for conduit.

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<sup>1</sup> *Amendment of Rules and Policies Governing Pole Attachments*, CS Docket No 97-98.

## II. Pole Attachment Issues

### A. Utility Companies Do Not Provide Sufficient Evidence in Support of Increasing the Presumptive Pole Height

In 1979, the Commission adopted a presumptive pole height of 37.5 feet for utilities to use when setting the maximum allowable rate for pole attachments by cable companies.<sup>2</sup> The Commission noted that parties reported a variety of pole heights, ranging from 30 feet to 50 feet, but that there was "...a consensus that the most commonly used poles are 35 and 40 feet high."<sup>3</sup>

A Whitepaper submitted by a group of electrical utilities, asserted that average pole height has increased to an average of 40 feet.

Over time, in light of the growing demand for access to poles by cable operators and others, 35 foot poles have been replaced with 40 foot and taller poles, to accommodate the demand for space. Although 45 foot or taller poles are in service, the Infrastructure Owners believe that, on average, the pole height of poles used for cable operators and other attachees is 40 feet.<sup>4</sup>

This statement provides very weak evidence on which to base a change in the Commission's pole attachment formula. The above-statement contains three

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<sup>2</sup> *Adoption of Rules for the Regulation of Cable Television Pole Attachments*, Second Report and Order, 72 FCC 2d at 68.

<sup>3</sup> *Ibid.*

<sup>4</sup> See, *Just and Reasonable Rates and Charges for Pole Attachments: The Utility Perspective*, Presented by: American Electric Power Service Corp. Commonwealth Edison Company, Duke Power Company, Entergy Services, Inc., Florida Power & Light Company, Northern States Power Company, The Southern Company, and Washington Water Power Company (Electric Whitepaper) at 10.

unsupported intimations: first, that 35-foot poles are generally being replaced with 40 foot and taller poles; second that utility companies are replacing 35 foot poles with 40 foot poles in response to demand from new entrants; and third, utility companies are not being reimbursed for the additional costs associated with replacing 35 foot poles with 40 foot poles when this change is implemented at the request of an attachee.

1. No evidence that 35 foot poles are rapidly being replaced with 40 foot and taller poles

The Whitepaper quote referred to above merely says that *some* 35 foot poles have been replaced by 40 foot and taller poles. It fails to document the extent or rate at which this is the case. The Commission should require more than vague representations about the extent and speed at which average pole height is increasing.

2. No evidence that demand from cable companies or new entrants is causing an increase in standard pole height

The quote also implies that average pole height is increasing from 37.5 to 40 feet due to the demand for additional pole space placed by cable companies and new telecommunications entrants. The force behind any potential pole height increases is more likely due increasing demand from electric customers.

Pole height is a combination of business interest and engineering requirements. On the engineering side, pole height is affected by clearances required over roadways, driveways, and between power and other attachments. Voltage is also a factor. Higher power voltages require larger separation between conductors. The type of equipment placed on a pole also effects required clearances.

On the business side, pole height is affected by the number and type of attachments both lessees and the utility company wish to place on the pole. Many electric utility companies are preparing for deregulation in their core business by upgrading to carry higher electrical voltage loads.<sup>5</sup> In addition, electric utility companies are rapidly entering the communications business, and therefore have a heightened incentive to limit pole attachments by non-affiliated companies.<sup>6</sup> It has been MCI's experience that utility companies only replace 35 foot distribution poles with higher poles in response to attachment from new entrants when they are unable to meet clearances by rearranging the existing facilities on the existing pole and the new entrant pays all pole replacement and transfer costs.

Thus, that to the extent pole height is increasing, it is primarily in response to increasing demand from electric service. If this is true, utility companies should recover these costs from their electric customers, and the Commission's pole attachment

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<sup>5</sup> See, e.g., *Energy Services & Telecom Report, September 26, 1996*: "Northwest Iowa Power Co-op...is undertaking a \$7.8 million, 400 mile project to ring its service area with fiber optic cable. Beyond the major effort to keep electric rates low, the co-op is attempting to increase load when retail wheeling is permitted in Iowa;" *Energy Services & Telecom Report, August 29, 1996*: A new unregulated subsidiary of Portland General Holdings...is building the network...a portion of the system will be reserved for communicating automatic meter reading data and for controlling substations..."

<sup>6</sup> See, *MCI Opposition to Petitions for Reconsideration Regarding Access to Poles, Conduits and Rights of Way*, CC Docket No 96-98, October 31, 1996 at 35; *Joint Cable Parties' Opposition to Petitions for Reconsideration Regarding Access to Poles, Conduits and Rights of Way*, CC Docket No 96-98, October 31, 1996 at 12.

formula will accomplish this task. The Commission should be especially skeptical of the electric companies' proposal to increase presumptive pole height, and at the same time reduce usable pole space. As discussed below, increasing presumptive pole height should be accompanied by increased usable space. If usable space increases and electric attachments utilize that increase, then a greater share of pole costs will be allocated to electric customers. However, increasing average pole height, accompanied by a reduction in average usable space, will shift costs to non-electric customers, reduce space available to attachees, and increase space available for attachments made for the utility company's electric and telecommunications customers.<sup>7</sup> The proposal is nothing short of an attempt to get cable and telecommunications attachees to pay for increased pole space needed to accommodate increasing demand from utility company electric and telecommunications customers.

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<sup>7</sup> The Commission's determination of other-than-usable space is merely an average based on a presumptive 37.5 foot pole height and presumptive ground clearance of 18 feet. Where poles are placed over rights-of-way requiring less than 18 feet of clearance, electric companies can actually make use of this other-than-usable space. In addition, the practice of over-lashing and using pole circumference to achieve required clearances, increases the number of attachments per foot of usable space.

3. No evidence that utility companies are not being reimbursed for the additional costs associated with increasing pole height

When the demand for additional space imposes modification costs, (for example, make-ready costs, upgrades, and replacement of poles to permit height increases) they are currently the responsibility of the party requiring additional space, and are separate from the recurring pole attachment rate.<sup>8</sup> To the extent increasing demand for pole space is recovered through non-recurring charges imposed on the attachee, it is not necessary to increase the presumptive pole height in order for companies to recover additional pole costs. Unless utility companies end the practice of charging attachees the full non-recurring cost of upgrading to a taller pole, there is no justification for increasing recurring rates, even if pole heights are increasing and attachees use a greater share of usable pole space.

- B. The Commission Should Prohibit Utility Companies from Recovering Through Non-recurring Charges, Investment Costs That Result in Additional Attachment Capacity

MCI recommends the Commission prohibit utility companies from recovering through non-recurring charges, or as part of make-ready charges, investment costs of upgrades that result in additional attachment capacity.<sup>9</sup> Under existing arrangements,

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<sup>8</sup> *Adoption of Rules for the Regulation of Cable Television Pole Attachments*, Second Report and Order, 72 FCC 2d at 72.

<sup>9</sup> Rearrangement expenses associated with investments that add capacity are legitimately recovered through make-ready charges, as indicated in §224(h) of the 1996 Act. These expenses include the cost of rearranging or replacing existing attachments in order to add additional capacity. However, the asset value of these investments should not be included in  
(continued...)

new attachees are responsible for all upgrade costs, yet additional capacity often reverts to the incumbent utility.<sup>10</sup> The incumbent utility may then rent that capacity to other attachees, and recover its costs twice. To prevent this from occurring, the Commission should prohibit utility companies from recovering the investment costs of additional capacity solely from those seeking that capacity.<sup>11</sup> Utility companies will recover these additional costs through higher recurring charges that will be justified by their increased net investment in pole or conduit capacity.

If the Commission does not exclude investment costs borne by those requesting attachments from make-ready charges, the Commission must then reduce utility net investment in poles and conduit by the amount of investment undertaken at the request of a new attachee, in order to prevent double recovery. This procedure is not as desirable as excluding these investments from make-ready charges and permitting them to be recovered via accounts 6411, 2411, or 2423. Transferring upgrade

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<sup>9</sup> (...continued)  
make-ready costs.

<sup>10</sup> This occurs if the upgrade is more than required for the attachee. For example, attachees are often required to pay for a duct in a conduit system and then pull 3 innerducts through this additional duct. The additional 2 innerducts revert to the licensor under many existing conduit and pole licensing agreements.

<sup>11</sup> §224(h) only requires the entity requesting the upgrade to bear the proportionate cost of *rearranging or replacing* existing attachments as the upgrade is implemented, but does not require the attachee to pay for the investment in the upgrade. "Any entity that adds to or modifies its existing attachment...shall bear a proportionate share of the costs incurred by the owner in making such pole, conduit, or right of way accessible."

investments from make-ready charges to recurring charges recovered via the pole attachment formula will spread the cost of the upgrade equitably among all users of poles and conduits. Transferring upgrade investments from make-ready charges to recurring charges also has the advantage of not requiring additional accounting mechanisms that would separate investments made on behalf of attachees from investments not made on behalf of attachees.

C. Utilities' Evidence in Support of Increasing the Other-than-usable Space Presumption Relies on Partial, Misleading, Evidence

In 1979, the Commission adopted a presumptive amount of average usable pole space of 13.5 feet, based on its conclusion that the consensus amount of usable space was 11 feet for a 35 foot pole and 16 feet for a 40 foot pole.<sup>12</sup> Subtracting 13.5 feet of usable space from the presumptive pole height of 37.5 feet, yielded 24 feet of "other-than-usable space." The record also established that 6 feet is the presumptive depth a pole must be placed underground, leaving 18 feet of pole space reserved for ground clearance, and a 40 inch safety space between electric lines and other lines.<sup>13</sup>

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<sup>12</sup> *Adoption of Rules for the Regulation of Cable Television Pole Attachments*, Second Report and Order, 72 FCC 2d at 68.

<sup>13</sup> *Ibid.*



The Electric Whitepaper concludes that average usable pole space should be decreased, from 13.5 to 11 feet, after making the following calculations.

Assuming a typical pole height of 40 feet... (1) The average amount of usable space, and the average amount of space required for each type of entity, is as follows: 11 feet of usable space with electric occupying 7.5 feet, cable occupying 1 foot, and the LEC occupying 2.5 feet; (2) The average amount of other than usable space is 29 feet with the following allocation: 6 feet below ground; 19' 8" of minimum ground clearance; 40 inches of clearance between the electric and communications space.<sup>14</sup>

Table 1 compares average pole height, usable, and other-than-usable space in the Commission's current rules, to figures proposed by the electric industry in the Electric Whitepaper. The table is a useful reference, for it reveals a sleight of hand the Whitepaper authors attempt to perpetrate. The Electric Whitepaper now proposes 11

**Table 1**

**Various Presumptive Heights:  
FCC Compared to Electric Whitepaper**

	<b>FCC</b>	<b>Electrics</b>
<b>Pole Height</b>	<b>37.5</b>	<b>40.0</b>
<b>Other-than-usable Space</b>	<b>24.0</b>	<b>29.0</b>
<i>Underground</i>	<i>6.0</i>	<i>6.0</i>
<i>Ground clearance</i>	<i>18.0</i>	<i>19.7</i>
<i>Usable converted to other-than-usable</i>	<i>0.0</i>	<i>3.3</i>
<b>Usable Space</b>	<b>13.5</b>	<b>11.0</b>

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<sup>14</sup> Electric Whitepaper at 10.

feet of usable space. However, the industry supplied data in 1978 that led the Commission to conclude a 40 foot pole had 16 feet of usable space.<sup>15</sup> Where has the extra 5 feet of usable space gone?

1. Electric utilities fail to present reliable evidence in favor of increasing pole space to achieve minimum ground clearance

The electric industry states that "[t]he Commission ... has previously recognized that 18 feet of pole space on any pole must be reserved for ground clearance pursuant to the National Electrical Safety Code ('NESC')."<sup>16</sup> The Whitepaper then goes on to argue that 18 feet should be the presumptive amount of ground clearance, but argues that for ground clearance to be 18 feet at mid-span, 19.7 feet of ground clearance is required at the pole.

However, neither the Bellcore Construction Manual, nor the NESC, uniformly set minimum ground clearance to be 18 feet at mid-span. Over driveways and roadways the minimum clearance is 15 feet at maximum storm conditions and 18 feet under normal conditions. Over walks and lanes, minimum ground clearance is 9.5 feet at maximum storm conditions, and 12.5 feet under normal conditions.<sup>17</sup> Over railroad tracks, 23.5 feet are required at maximum storm conditions. Some ground clearances are above 18 feet, some are below. 18 feet continues to represent the average

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<sup>15</sup> *Adoption of Rules for the Regulation of Cable Television Pole Attachments*, Second Report and Order, 72 FCC 2d at 68.

<sup>16</sup> Electric Whitepaper at 11.

<sup>17</sup> Attachment 2.

minimum ground clearance.

2. Electric utilities rely on arguments in favor of transferring the safety space to other-than-usable space that have already been rejected by the Commission

The Electric Whitepaper identifies what would be the remaining 3.3 feet of usable space, as safety space the NESC requires to be maintained between power lines and communications cables. The Electric Whitepaper allocates this space to other-than-usable space. The Commission has explicitly rejected the allocation of this safety space to other-than-usable space.

...we reject the position represented by Edison, Florida, New Orleans, Southwestern and Teleservice to the extent it would assign part of the safety space to CATV. Suggestions that the safety space be entirely excluded in the determination of usable space must be similarly rejected.<sup>18</sup>

The Electric Whitepaper grossly distorts the Commission's meaning when it states that "...the Commission has previously held that the risk of maintaining this safety space effectively falls on the cable operator."<sup>19</sup> Actually, the Commission argued that since cable operators effectively shouldered the risk for maintaining this safety space, in the event their demand for additional space encroached upon the safety space, they should not be held liable for additional safety space costs they would incur if the safety

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<sup>18</sup> *Adoption of Rules for the Regulation of Cable Television Pole Attachments*, Second Report and Order, 72 FCC 2d at 72.

<sup>19</sup> Electric Whitepaper at 11.

space were allocated to other-than-usable space.<sup>20</sup> MCI supports the Commission's existing rules that allocate the safety space to electrical purposes.

The reason the electric companies propose transferring the costs associated with 3.3 feet of safety space currently allocated solely to electric purposes, to other-than-usable space, is clear when one considers that new Section 224(e)(2) of the 1996 Act now requires all attachees to share the costs of other-than-usable space. What is less clear, is why the electric companies believed they could fool the Commission and the public into believing a transfer of their existing costs to their telecommunications competitors is actually a magnanimous gesture to reduce their competitors' costs.<sup>21</sup>

D. All Pole Heights Should be Included in Pole Attachment Rate Calculations

In its Notice, the Commission requests comment on whether poles of heights 30 feet or less lack sufficient usable space to accommodate multiple attachments, and if so, whether the costs associated with these poles should be removed from its formula calculating average net investment per pole. The Electric Whitepaper proposes excluding poles of 30 feet in height or less because they "...typically will only accommodate the facilities of the electric utility and are not representative of a typical

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<sup>20</sup> *Adoption of Rules for the Regulation of Cable Television Pole Attachments*, Second Report and Order, 72 FCC 2d at 71.

<sup>21</sup> "While the clearance is intended to benefit primarily communications company workers, the Infrastructure Owners recognize that all parties benefit from the 40 inch clearance space. For this reason, consistent with the Congressional intent, the Infrastructure Owners support the assignment of the 40 inch clearance space as other than usable space, the costs of which will be shared by all parties with pole attachments." See, Whitepaper at 11.

distribution pole. Moreover, many poles of 30 feet or less are used strictly for street lights and, therefore, are not applicable for joint use.”<sup>22</sup>

1. 30 foot poles allow attachment by telecommunications carriers

The electric companies maintain that 30 foot poles are not suitable for any attachment other than for electric purposes. This is not true. 30 foot poles are able to support electric and telecommunications attachments if an electrical transformer case or capacitor case is not present. Take for example, a 30 foot pole carrying electric power circuits 8.7 kV or less. After deducting 18 feet for ground clearance, 6 feet for underground placement, and 3.3 feet of clearance between the electric attachment and communications attachments, there remain 2.7 feet of usable space.<sup>23</sup> That leaves 1 foot for cable, .3 feet for a grounded streetlight and traffic-signal bracket, and 1.4 feet for attachments by new entrants. Additional attachments are possible if the utility company overlashes communications cables, or uses the pole circumference to comply with required clearances. In any case, 30 foot poles that carry only street lights, or are used exclusively by ILECs, are certainly capable of one or more telecommunications attachments.

As long as these poles are capable of carrying even one telecommunications cable, they should be included in the rate calculation formula for pole attachments. If the Commission excludes the lower net investment costs associated with these poles

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<sup>22</sup> Whitepaper at 9.

<sup>23</sup> See Attachment 2.

from its pole attachment formula, rates will be set unreasonably and unjustifiably above costs. Even if the ILECs and the electric companies impute these rates to themselves or their telecommunications affiliate, the overcharges will constitute a pool of revenues from which they may subsidize competitive telecommunications or electric services, in violation of §254(k) of the 1996 Act.

2. The Commission should include 30 foot poles in the formulas for net investment

Because excluding 30 foot poles would unjustifiably raise pole rates above the average cost of attaching to a pole, §254(k) compels the Commission to include these poles, and their associated investment, depreciation, and maintenance expenses in its various pole attachment rate formulas. In any case, the method the Electric Whitepaper suggests removing these poles from rate making formulas is seriously flawed, and cannot be relied upon to yield just, reasonable, and nondiscriminatory pole attachment rates.

The flaw is the one-sided manner the electric companies' propose to exclude 30 foot poles. They propose excluding them from net investment and total pole counts, which, as discussed above, would increase the average net investment of a bare pole. However, they do not propose removing the maintenance carrying charges associated with poles of heights 30 feet and less. Because these poles are likely to be older than taller poles, they will have higher maintenance costs. Thus, the electric companies proposal to exclude poles 30 feet and less from the pole attachment rate formulas would raise the attachment costs to cable companies and new entrants by: (1)

increasing average net investment per pole; and (2) increasing maintenance carrying charges per pole.

E. The Commission Need Not Modify its Pole Attachment Formula

1. Some companies have nearly depreciated their pole plant

In its Notice, the Commission identified the possibility that when pole plant is nearing complete depreciation, and net salvage value is negative, its pole attachment rate formula could result in negative rates.<sup>24</sup> Before taking steps to correct this anomaly in the pole attachment rate formula, the Commission sought information on the extent to which pole plant was depreciated, and whether this was resulting in negative pole attachment rates. MCI does not have access to reliable nationwide pole attachment rate data at the moment. However, one may use Armis data to determine the extent to which pole plant is fully depreciated. Attachment 3 shows that 8 of the larger telephone companies have depreciated over 75% of their pole plant.<sup>25</sup>

2. Commission need not modify its pole attachment formula as net investment approaches zero.

In its Notice, the Commission identified the possibility that when pole plant is nearing complete depreciation, and net salvage value is negative, its pole attachment rate formula could result in negative rates.<sup>26</sup> While there are anomalies in the

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<sup>24</sup> Notice at 9.

<sup>25</sup> Data were available at the holding company level, not operating company level.

<sup>26</sup> Notice at 9.

Commission's pole attachment rate formula, it is not true that the Commission's pole attachment rate formula will ever result in negative pole attachment rates. That is because, at the moment net pole investment becomes negative, the maintenance carrying charge rate also turns negative. This, in turn, causes the carrying charge rate to turn negative. The negative carrying charge percentage offsets negative pole investment in the pole rate-setting formula, always producing a positive rate.<sup>27</sup>

Table 2 below, shows a trend in pole attachment rates for a single hypothetical pole valued at \$100.<sup>28</sup> The example makes the following assumptions: one attachee utilizes all of the pole; straight line depreciation; remaining life of 10 years; no adjustment for cross arms; a negative net salvage value that increases 5% annually to capture increasing removal costs; administrative carrying charge rate of 2%; a tax rate of 36% on profits yielding 4% tax carrying charge rate; pole maintenance expenses that begin at \$2 per year and increase 5% a year; and no accumulated deferred taxes.

A desirable feature of the existing pole attachment formula is that it permits annual rates for poles to follow the path one would expect. Rates decline as plant is depreciated. Prior to the point plant is fully depreciated, rates cover pole maintenance expenses. Once plant is fully depreciated, rates remain positive, and nearly, but not

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<sup>27</sup> Maximum Rate =  $\frac{(\text{Space Occupied by Attachment})}{\text{Total Usable Space}} \times \text{Carrying Charge Rate} \times \text{Net Pole Investment} \times .95 + \text{Total \# of Poles}$

<sup>28</sup> Table 2 is an extract of Attachment 4 which presents a model showing the path of rates under the Commission's pole attachment formula.



**Table 2****Existing FCC Pole Attachment Formula**

Year End	Net Pole Investment	Accumulated Pole Depreciation%	Negative Pole Salvage Value %	Pole Depreciation Rate	Pole Maintenance Expense	Pole Maintenance Rate	Carrying Charge Rate	Annual Charge
1	100		5	11%	2	2%	30%	30
2	89	11%	6	10%	2	2%	29%	26
3	80	20%	6	9%	2	3%	29%	23
4	71	29%	6	8%	2	3%	28%	20
5	64	36%	7	7%	2	4%	28%	18
6	57	43%	7	6%	3	5%	28%	16
7	50	50%	7	6%	3	5%	28%	14
8	44	56%	8	5%	3	6%	29%	13
9	39	61%	8	5%	3	8%	30%	12
10	34	66%	9	4%	3	9%	31%	11
11	30	70%	9	4%	3	11%	32%	10
12	26	74%	10	4%	3	13%	34%	9
13	23	77%	10	3%	4	16%	36%	8
14	19	81%	11	3%	4	19%	40%	8
15	16	84%	11	3%	4	24%	44%	7
16	14	86%	12	3%	4	30%	50%	7
17	11	89%	12	2%	4	39%	59%	7
18	9	91%	13	2%	5	52%	72%	6
19	7	93%	14	2%	5	73%	92%	6
20	5	95%	14	2%	5	110%	129%	6
21	3	97%	15	2%	5	197%	216%	6
22	1	99%	16	2%	6	606%	625%	6
23	-1	101%	17	2%	6	-769%	-750%	6
24	-2	102%	18	2%	6	-261%	-242%	6
25	-4	104%	19	1%	6	-166%	-147%	6
26	-5	105%	20	1%	7	-127%	-108%	6
27	-7	107%	21	1%	7	-105%	-86%	6
28	-8	108%	22	1%	7	-92%	-73%	6
29	-9	109%	23	1%	8	-83%	-64%	6
30	-11	111%	24	1%	8	-76%	-58%	6